



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, FIRST SESSION

Vol. 143

WASHINGTON, WEDNESDAY, APRIL 30, 1997

No. 54

Senate

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, thank You for enabling us to be creative thinkers. We know that beyond our education and experience there are solutions to problems we will not think of without Your special gift of knowledge. We remember times when we have received this supernatural gift. You revealed answers to problems that we could not have achieved with our own analysis. We prayed faithfully and waited patiently and then the startling "ah-ha!" dawned on us. You gave us insights we could never have grasped by ourselves. By divine inspiration, You helped us know what was happening beneath the surface of perplexities. You allowed us to see what You see. We gave You the credit and the glory.

Now, as we begin this day, once again we confess how much we need this gift of knowledge. Unresolved problems have a way of piling up. Please use us to discover and communicate Your answers. Thank You for transforming our imaginations so they can be holy riverbeds through which You can pour Your creative ideas. Help us picture reality from Your perspective and then claim what You want. We look forward to an inspired day. Through our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

SCHEDULE

Mr. LOTT. Mr. President, this morning the Senate will immediately resume consideration of the motion to

proceed to S. 543, the Volunteer Protection Act. By previous order, at 11:15 a.m. the Senate will vote on the second cloture motion to proceed to this bill, S. 543. As a reminder to all Senators, if that cloture vote fails, two additional cloture motions were filed last night and would be voted on, on Thursday. It is still my hope that the Senate will be allowed to move forward and begin consideration of this important legislation. In addition, the Senate could also be asked to turn to any other Legislative or Executive Calendar items that may be cleared.

VOLUNTEER PROTECTION ACT

Mr. LOTT. Mr. President, on this legislation, again, I want to emphasize to the American people that we are being prevented from even debating the real merits of this very important legislation, which would give some degree of protection to volunteers from being sued when they are not even remotely involved in what may have caused a lawsuit. If they are involved in some excessive action or some misconduct, they would still be subject to lawsuits, but this would give some degree of protection to volunteers.

I cannot help but again point out the fact that, at a time when there is this great conference in Philadelphia, the City of Brotherly Love, talking about voluntarism in America, how important it is to be involved with Little League, to be involved with reading, to be involved with the Boys and Girls Club, the Red Cross, the Salvation Army—be involved. Here, when we say, "Yes, but one of the problems is that you run the risk of being sued; if your good will causes you to be involved as a volunteer you could wind up having legal action against you and we want to provide some protection against that"—the Democrats are filibustering the motion to proceed to the bill.

That is very curious. They say maybe it is related to other issues that have

not been brought up. But the fact of the matter is, this is very clear. It is a very clear choice. Is the Senate going to go on record of supporting volunteers and giving them some reasonable protection against frivolous lawsuits, or are we going to side with the plaintiffs' lawyers who want to be able to sue everybody, anytime, anywhere they want to, even volunteers? We are going to have to choose.

So I want to serve notice to the Senate we are going to vote on this issue over and over and over, and we will not go to other legislation until this Volunteer Protection Act is passed.

You know, if there is going to be a lot of whining about we cannot do other things—this is important, fundamental legislation that tells an awful lot about whether we are honest about wanting to encourage volunteers and be helpful to volunteers in America.

I would like to address some questions to the distinguished Senator from Georgia, who has done such outstanding work on this legislation. I commend him for being prepared to come to the floor of the Senate and point out what is actually in the bill. I put down some of the ridiculous allegations that I have heard against the bill yesterday, about who might be covered by this. You have stood here and you have answered the questions. You have told the truth about what is in the bill. You have been prepared to work out problems that might exist, although it does not look to me like anybody is really very serious about addressing concerns they may or may not have. So, I thank you on behalf of the volunteers of America for volunteering to stand here in the Senate and do battle for them. You have done a great job. I have heard a lot of other good speeches from our colleagues out here in the Senate, Senator ASHCROFT—I encourage others to come over and engage in this debate.

But would you answer for me this question? First of all, is this going to

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protect volunteers who are involved in misconduct in any way from legitimate lawsuits?

Mr. COVERDELL. First of all, I thank the leader for focusing on this important measure this morning. I think you have pointed out what to me has been a startling irony, that the administration is calling on thousands of Americans to step forward and then sends a team down here to trip them if they do.

The answer to the question is absolutely not. First of all, it is only 12 pages long and it is very precise. If you are involved with misconduct, reckless conduct, gross negligence, driving under the influence, a hate crime, a sex crime, a civil rights crime—this legislation offers you no protection. What it does is it deals with the volunteer who steps forward and makes a simple mistake or omission in the act of being that volunteer. It would grant protections, limited protections to a volunteer in that circumstance.

It was suggested yesterday that organizations who promote hate would somehow find a shield in this measure. That was disappointing. I did not think that had a real place in the debate. Nevertheless, it was brought up and it is absolutely incorrect. No organization—they specifically alluded to the Ku Klux Klan—given the definition of an organization here, there is not a jury or a judge in America that would find that definition to include the Ku Klux Klan.

Mr. LOTT. If the Senator from Georgia will yield, it is pretty clear and narrowly defined, as I read it. It would be applicable to volunteers or any category of volunteers in the performance of services for a nonprofit organization or governmental entity; and (2) nonprofit organizations or governmental entities. That is pretty narrow in its applicability.

But let me ask you, are you telling me that there are examples in America where individuals who get involved with the Salvation Army or get involved with Little League Baseball literally are being sued?

Mr. COVERDELL. Absolutely. It is not so much a case of the judgments. It is a case of the threat of the suit and what it can do to you. The best example is listed here where a man who is part of a rescue team rescued an individual who had fallen off a ledge and was paralyzed. The person who was rescued by that rescue team sued the rescuers for \$12 million.

It was ultimately thrown out of court. But it has had a chilling effect on people. You come forward, you want to volunteer, but you don't want to put your family's business or assets at risk for doing that.

Mr. LOTT. Who is opposed to this legislation? What is the reason for opposing it? I cannot understand it.

Mr. COVERDELL. Let us look at the lineup here. I read a letter yesterday I have from Little League Baseball. You have the United Way, the Red Cross,

the Navy League, the Air Force Association, the American Society of Association Executives. Who is on the other side here? What is the cast? It is those among the trial attorneys who simply cannot abide that there be any reform at all, including volunteers, from the protection of these kind of suits. That is never mentioned. But that is where the opposition is.

We had a case from Senator SANTORUM who, in the last Congress, finally got the Emerson bill passed, which protected people who were giving food to homeless and starving people. It took the entire session and it was finally passed by unanimous consent in the waning hours of the last Congress—the same opponents.

So here we are, trying to make it possible for Americans to respond to four Presidents: Clinton, Bush, Carter, and Ford; and here they are trying to block it.

Mr. LOTT. I thank you again for your effort. I am hoping we will begin to see a break in the stonewall against the motion to proceed to the bill today and that we will have some Democrats join in getting cloture so we can go on and finish our discussion of the bill and get to a final vote. I think that will happen because I think all of us really want to encourage voluntarism and I think this legislation will help that all across America.

Then we can go on, either later on this week or next week, to take up some nominations that are pending on the Executive Calendar and be prepared on Monday to go to the supplemental appropriations bill. It is our intent to move forward with that legislation. There is a lot of complaining now that there may be some amendments in committee or amendments offered on the floor. What's new? This is the U.S. Senate. Any Senator, he or she, can offer an amendment. We can debate it. And there are those who say, "If you offer certain amendments or if there are certain things in the bill, we are going to filibuster those items and hold up the bill," and then they say we are holding up the bill.

I am saying now the Appropriations Committee will do its job today or tomorrow and report out the supplemental appropriations bill, hopefully in a way that will pay for the cost of the bill, for the most part. And then we will be prepared to begin on Monday and I will be prepared to have the final vote Tuesday or Wednesday. If we have to, we will file cloture to try to cut off a filibuster on items that may or may not be in the bill. And we hope to be able to complete it Wednesday or Thursday of next week.

With that, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. SMITH of Oregon). Under the previous order the leadership time is reserved.

VOLUNTEER PROTECTION ACT OF 1997—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the motion to proceed to S. 543, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 543) to provide certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers.

The Senate resumed consideration of the motion to proceed.

The PRESIDING OFFICER. The time between 10 a.m. and 11:15 a.m. shall be divided equally between the Senator from Georgia [Mr. COVERDELL] or his designee, and the Senator from Vermont [Mr. LEAHY] or his designee. The Chair recognizes the Senator from Georgia.

Mr. COVERDELL. Mr. President, I did not expect the majority leader to invest the time, which I very much appreciate his having done, to frame the nature of the situation we have here. But, just to restate it for those who may be listening, in response to the summit on voluntarism, we have brought to the Senate floor a very specific proposal, legislation, to make it easier for Americans to volunteer. We have moved to bring it before the Senate and the other side is filibustering that motion in order to prevent our taking action on this Volunteer Protection Act.

As I said in response to the leader, this is legislation that has been before the Congress in one form or another for almost 12 years, and has been consistently rebutted by the hierarchy of the Trial Lawyers Association. It is 12 pages long and it gives modest protection to volunteers who step forward in the 600,000 organizations across our land who try to promote the interests of those in need, whether they are children, the elderly, the illiterate, the wounded, or those who have been affected by the very flood we are talking about in the Midwest.

We have appeal after appeal from organization after organization requesting the legislation. They are having volunteer members of their boards of directors resign, because while they want to help, they do not envision taking all their family business and all their family assets and putting them in a lottery, so they resign.

When the organization asks for a mother or father to step forward and coach Little League Baseball, they hesitate, because they have read about these illogical but, nevertheless, real lawsuits against volunteers. Often, the organization has no assets at all, but one of the volunteers does. And so the suit goes straight to the individual who has accumulated, for whatever reason, some resources, some wealth. They are at particular risk because they have what is called deep pockets. They are chilled from coming forward. Often these people are very talented, high capacity, but they are chilled away; they are cautioned away.